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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,205	04/24/2001	William L. Steinmetz	Y2K.0110	5850

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DENVER, CO 80202

EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 09/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,205

Applicant(s)

STEINMETZ ET AL.

Examiner

Shay L Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 21 August 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on 8/21/03. These drawings are accepted.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23-25, 28, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyons (USPN D383577).

Lyons teaches a ticket scraping device comprising a housing having a gripping area and a scraping edge protruding from the housing wherein the scraping edge has a straight edge portion the extends continuously into an arcuate scraping edge portion. The housing has a generally triangular shape and the gripping area is selected from the group consisting of a flat shape, a concave shape and a convex shape. The housing and the scraping edge are integral with each other. The scraping device is molded as a single unit. There is an aperture for receiving a key ring.

4. Claims 23-24, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lower (USPN 2380855).

Lower teaches a ticket scraping device comprising a housing (16) having a gripping area and a scraping edge (10) protruding from the housing wherein the scraping edge has a straight edge portion (11) the extends continuously into an arcuate scraping edge portion (14). The

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gripping area is selected from the group consisting of a flat shape, a concave shape and a convex shape. The gripping area includes a series of flutes to increase gripping capabilities. The housing and the scraping edge are integral with each other. The scraping device is molded as a single unit. There is an aperture for receiving a key ring (16a).

5. Claims 23-24, 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges (USPN 5713232).

Hodges teaches a ticket scraping device comprising a housing (10) having a gripping area (74) and a scraping edge (12) protruding from the housing wherein the scraping edge has a straight edge portion the extends continuously into an arcuate scraping edge portion. The gripping area is selected from the group consisting of a flat shape, a concave shape and a convex shape. The housing and the scraping edge are integral with each other. There is an aperture (44) for receiving a key ring.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lower and Hodge.

Lower and Hodge teach all the essential elements of the claimed invention however, fail to disclose expressly that the shape of the housing is generally triangular with an obtuse angle.

At the time the invention was made, it would have been obvious to a person of ordinary skill in

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the art to have the shape be triangular with an obtuse angle because Applicant has not disclosed that the shape provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the shape as taught by Lower or Hodge or the claimed triangular shape because both shapes allow the user to easily hold the scraper in their hand. Therefore, it would have been obvious to one of ordinary skill in the art to modify Lower and Hodge to obtain the invention as specified in claims 25 and 26.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons.

Lyons teaches all the essential elements of the claimed invention however, fail to disclose expressly that the triangular housing has an obtuse angle. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have an triangle with an obtuse angle because Applicant has not disclosed that the shape provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the shape as taught by Lyons or the claimed triangular shape because both shapes allow the user to easily hold the scraper in their hand. Therefore, it would have been obvious to one of ordinary skill in the art to modify Lyons to obtain the invention as specified in claim 26.

9. Claims 27, 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons in view of Bonforte (USPN 4302878), Lower in view of Bonforte (USPN 4302878) and Hodge in view of Bonforte (USPN 4302878).

Lyons, Lower and Hodge all teach the essential elements of the claimed invention however, the references all fail to teach a scraping edge comprising glass fibers. Bonforte

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teaches a self-sharpening cutting blade that comprises glass fibers (col. 2, lines 8-69). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Bonforte self-sharpening cutting blade as the scraping edge used in Lyons, Lower and Hodge so that the blade will have a longer lifetime and so that it will always have a sharp edge.

With regards to claim 33-38 and the shape being triangular with an obtuse angle, the rejection for Lower and Hodge stands as stated above in the claim 25 rejections, paragraph 7, as a design choice.

10. Claims 27, 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons in view of Charvat (USPN 3529945), Lower in view of Charvat (USPN 3529945) and Hodge (USPN 5713232) in view of Charvat (USPN 3529945).

Lyons, Lower and Hodge teach all the essential elements of the claimed invention as recited in the above rejections however, the reference fail to teach a scraping edge comprising glass fibers. Charvat teaches an abrading and finishing tool that is made from plastic and has glass fibers embedded within it. It would have been obvious to one of ordinary skill in the art to make the scraper out of plastic with glasses fibers embedded in it because it eliminates the need for extra pressure to be applied to the area to be scraped (col. 1 lines 34-44).

With regards to claim 33-38 and the shape being triangular with an obtuse angle, the rejection for Lower and Hodge stands as stated above in the claim 25 rejections, paragraph 7, as a design choice.

Response to Arguments

11. In response to applicant's argument that Lyons, while having a straight edge cannot be considered to have a straight edge portion because the straight edge of Lyons device cannot

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contact the protective coating of a lottery ticket it used in its intended fashion, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

Slb
9/5/03

A handwritten signature in black ink that reads "Robert J. Warden, Sr." with a stylized flourish at the end.

ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700